

## II. DOCUMENTAR JURIDIC

### EVOLUTION OF THE HUMAN RIGHTS LEGISLATION IN THE EUROPEAN UNION AND IN ROMANIA IN THE YEAR 2016 – IRDO REPORT\*

The year 2016 represents not only the assumption of the continuation of the priorities of the European Union's 2015 program, but also the consolidation and knowledge deepening of European initiatives and projects, as well as the further protection of democracy and the promotion of human rights, key components of the European Union's foreign policy.

In 2016, fifty years after the adoption of the International Covenant on Economic, Social and Cultural Rights, of the Covenant on Civil and Political Rights and ten years after the establishment of the UN Human Rights Council, the Council of the European Union **set the EU's 2016 priorities besides the United Nations fora in charge of Human Rights Protection**<sup>1</sup> (February 2016), thus recalling *the EU's Strategic Human Rights and Democracy Framework and the EU Action Plan on Human Rights and Democracy for the period 2015-2019*, the commitment to the universality, indivisibility and interdependence of all human rights. The EU Council also highlights the importance of the full and effective implementation of Agenda 2030, including through a rights-based approach, encompassing all human rights and gender equality, to achieve sustainable development goals.

This document also reiterates the Union's commitment to step up efforts to encourage the protection and promotion of economic, social and cultural rights, to implement and promote, including with third countries, the UN guiding Principles on Business and Human Rights and support efforts to improve access to effective remedies.

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<sup>1</sup> <http://data.consilium.europa.eu/doc/document/ST-6012-2016-INIT/ro/pdf>

Even if the Union faces a major challenge in responding to the global refugee crisis, it remains unwavering in its commitment to guaranteeing the right to asylum and the highest level of human rights protection for all.

EU policies and priorities reveal a permanent dialogue and call for human rights consultations with a view to enhancing cooperation in this field, and human rights are given special attention in respect of bilateral trade agreements, association and cooperation agreements between the EU and third countries or with regional organizations.

Concerning the relationship with the Middle East, the EU must pay due attention to the management of migration issues, in particular the Syrian refugee wave, and to the management of the jihad's terrorist phenomenon, events that have marked the evolution of 2016.

In 2016, the implementation of the *New Multi annual Financial Framework 2014-2020* continued and the rotating presidency of the EU Council took place in normal parameters.

Thus, among *the priorities of the Dutch Presidency* in the EU Council, we mention: migration and security, Europe as a generator of labor and innovation, a robust monetary union climate-friendly and energy policy, oriented etc.

With regard to the priorities of the presidency of Slovakia in the EU Council, these include consolidating the European economy, modernizing and deepening the single market in areas such as energy and digital economy, the prior configuration of an immigration and sustainable asylum policy to which the management of the outcome of the British referendum was also added.

At the meetings of the Council of the European Union, the issues submitted for debate and the decisions taken looked mainly at the EU

economic situation, migration and the refugee crisis, the analysis of the Commission's energy security package, the EU's commitment to reduce greenhouse gas emissions at national level and to increase the percentage of renewable energy, the results of the referendum of 23 June 2016 on the UK exit from the EU, etc.

With regard to **migration**, the foundations for good cooperation with Senegal, Mali, Niger, Nigeria and Ethiopia on the so-called "migration pact" have been created, as migration flows to Greek islands have fallen by 98% compared to the same period of 2015, but irregular flows on the Central Mediterranean route, namely from Africa to Italy, remain far too high. It also analyzed the idea of returning to Schengen and the issue of a reform of the Common European Asylum System, including how to apply the principles of solidarity and responsibility in the future.

Given the agreement between the EU and Turkey to stop the uncontrolled flow of migrants on one of the main Aegean routes, the number of refugees and migrants arriving from Turkey has been significantly reduced. Through this agreement migrants in irregular situation and asylum seekers arriving on Greek islands coming from Turkey can be returned. In exchange for each Syrian sent back to Turkey from the Greek islands after an illegal crossing, the Union will accept a Syrian from Turkey who has not attempted to make this passage irregularly. Return operations from Greek islands to Turkey began alongside with resettlement flights directly from Turkey to EU Member States.

In June 2016, it was agreed to set up the European Border and Coast Guard to strengthen the management and security of the EU's common external borders. The European Police Office has opened a new European Center on Illegal Migration to support EU Member States in the annihilation of criminal networks involved in illegal immigration.

The Communication from the Commission to the European Parliament and the Council entitled "The possibilities for reforming the Common European Asylum System and improving legal

migration paths"<sup>2</sup> highlighted that Europe must better manage migration in all its aspects – a need stemming from either humanitarian imperatives, or from the want for solidarity or the challenges posed by demographic change and by gaps in competencies. The Commission expressed its commitment to developing an integrated, sustainable and comprehensive European migration policy.

With regard to the protection of personal data at EU level, EU Regulation No. 410/2006 was published in the Official Journal of the European Union on 4 May 2016; (EC) No 2016/679 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and on the repealing of Directive 95/46 / EC (General Data Protection Directive) 2016/680 on the protection of personal data in specific activities carried out by law enforcement authorities. The provisions of the Regulation will become applicable for more than 2 years with the objective of giving individuals greater control over their personal data. The Regulation regulates aspects such as the right to be forgotten, clear consent to the processing of personal data, the right to transfer data to another service provider, the right to be notified in case of data security breaches, clear language and easy to understand privacy policies, appointing a Data Protection Officer, setting new sanctions.

The adoption on 9 March 2016 of EU Directive 2016/343 of the European Parliament and of the Council on the *strengthening of certain aspects of the presumption of innocence and the right to be heard in criminal proceedings*<sup>3</sup> is intended to guarantee the presumption of innocence to persons whom are suspected by the police or by judicial authorities of committing an offense, and is also intended to ensure respect for fundamental rights such as: innocence until proven guilty; member States shall ensure that the burden of proof for establishing the guilt of suspects and accused persons is on the prosecution; the right to silence; the right to be present in the criminal

<sup>2</sup> <http://ec.europa.eu/transparency/regdoc/rep/1/2016/RO/1-2016-197-RO-F1-1.PDF>.

<sup>3</sup> Jurnalul Oficial al Uniunii Europene L 65/1 din 11 martie 2016.

proceedings in order to ensure a fair trial, the right to a new trial.

The Directive aims to strengthen the Member States' confidence in the criminal justice systems of other Member States in order to facilitate the mutual recognition of judgments in criminal matters, which would in the future remove the obstacles to the free movement of citizens within the territory of the Member States.

The provisions of the Directive should apply only to criminal proceedings as interpreted by the Court of Justice of the European Union, without prejudice to the case-law of the European Court of Human Rights. The Directive will apply to all Member States except Denmark and the United Kingdom.

It follows that, within two years from the date of entry into force of the Directive, Member States will implement these measures at national level and recognize their value and significance within the criminal-law system.

**Gender Equality.** In support of gender equality and equal treatment between men and women, *the European Parliament Resolution of 13 September 2016 on the creation of favorable conditions for work-life balance in the labor market*<sup>4</sup>, should be mentioned. The Resolution points out that the reconciliation of the working life with private and family life must be guaranteed to all persons as a fundamental right, in the spirit of the Charter of Fundamental Rights of the European Union, in the context of unprecedented demographic changes, where the decline in the birth rate in the EU is visible. Through this Resolution, Member States are invited to ensure that entitlements to social benefits provided through public policies are equally accessible to women and men so that all people can enjoy their rights and a better balance between their private and professional lives. The objectives are: equal pay and care responsibilities for women and men, family or care leave, dependency care, high quality jobs, and quality of life.

The issue of combating violence against refugee women, their health situation and measures to

promote their integration was the subject of an interparliamentary meeting organized on 8 March by the Human Rights Commission of the European Parliament. The works of the meeting have begun with a statement by the European Commission on the socio-economic situation of women in Europe, followed by the debate and voting on a report on refugee women.

The *European Parliament Resolution of 14 September 2016 on social dumping in the European Union*<sup>5</sup> aims to eliminate regulatory gaps in order to ensure the application of labor and social law at national and European level, as well as addressing the principle of equal treatment and non-discrimination, combating dumping social policy in the field of transport as it contravenes European values, endangering the protection of the rights of European citizens and, last but not least, it highlights that fundamental rights prevail.

At EU level, human rights trends and visions play an important role, that of a strong regional framework for the Union's work to promote and protect human rights as a basis for the EU's global human rights policy. Thus, with regard to the protection of **children's rights**, the Council of Europe adopted the Strategy on the Rights of the Child for the next six years (2016-2021), the priorities of which are as follows:

- equal opportunities for all children by preventing exclusion and combating discrimination;
- participation of all children in policy-making processes through education on citizenship and human rights;
- a life without violence for all children by combating sexual exploitation and abuse, as well as other forms of violence;
- a child-friendly justice for children by protecting children deprived of their liberty through anti-criminalization and reintegration;
- protection of the rights of the child in the digital environment by promoting the creative, analytical and safe use of the Internet.

Also in 2016 *the European Union Mortgage Directive 2014/17 / CE*, adopted on 4 February

<sup>4</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0338&format=XML&language=RO>.

<sup>5</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0346&language=RO&ring=A8-2016-0255>.

2014 came into force, aiming to improve consumer protection across the EU. Consumers will therefore benefit from clearer and more intelligible information understandable with the introduction of standardized forms at European level, and more vulnerable consumers will be protected from over-indebtedness by European standards to assess the credibility of applicants.

*The Strategy for Governance of the Internet 2016-2019* was also adopted by the Council of Europe, on 30 March, 2016, which aims to meet the challenges of human rights, democracy and the rule of law in the online environment. This is to protect and ensure effective respect for human rights. The strategy aims to:

- establish a platform between governments and major Internet companies to promote respect for online human rights and the development of concrete measures to address concerns about mass surveillance and mass interception of data;
- develop standards on the role of internet intermediaries in terms of freedom of expression;
- launch a consultation on European education with a view to developing a White Paper on Media Education and Information Culture;
- promote the creation of an institutional network to guide Internet users seeking to request repairs if human rights have been violated online;
- develop reports on the situation of Internet data protection in Europe;
- assess and review health management through mobile and electronic healthcare

In terms of promoting and protecting human rights at national level, a series of normative acts have been adopted in 2016, the content of which concerns inter alia the fight against domestic violence, children's rights, the rights of persons with disabilities, the right to health, education, freedom of movement, etc., as well as the promotion of national strategies in certain areas of interest.

**Violence against women** is a violation of human rights and stands proof of gender discrimination that prevents women from fully participating in economic, social, political and cultural life. Measures to stop this phenomenon and to promote and protect women's rights must

always be on the agenda of the Romanian state institutions.

In this regard, the Romanian Parliament ratified, through Law no. 30/2016, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, adopted in Istanbul on 11 May 2011.

The signing of the Istanbul Convention on 27 June 2014 in Strasbourg is a significant step forward in strengthening the universal legal framework on the protection and promotion of human rights. The Convention aims to create mechanisms to ensure responsible victim protection, given that violence against women violates the rights protected by the European Charter of Fundamental Rights (e.g. the right to life, dignity and the prohibition of violence and torture); as well as to raise awareness on the effects of this phenomenon and preventing and combating all forms of violence.

The Convention establishes acts that have to be penalized (physical violence, psychological violence, stalking<sup>6</sup>) and introduces a number of new offenses such as female genital mutilation, forced marriage, harassment, forced abortion or forced sterilization.

In support of the promotion of **equal opportunities between men and women**, of the gender perspective, and of the accountability of both parties, by Law no. 22/2016 the 8<sup>th</sup> of March is designated as the Women's Day and November 19<sup>th</sup> the Men's Day. It aims at improving gender relations, promoting gender equality and presenting male models to be followed.

Regarding **the right to vote**, it is worth mentioning the adoption of the *Government Decision no. 92/2016 for the application of the provisions of the Law no.288 / 2015 regarding the voting by correspondence*, as well as the amendment and completion of the *Law no. 208/2015 regarding the election of the Senate and the Chamber of Deputies, as well as for the organization and functioning of the Permanent Electoral Authority in the elections*

<sup>6</sup> A term that means harassing of a person consisting in pursuing him or her and / or members of his or her family, photographing them and publishing images, revealing the most intimate aspects of their privacy, etc.

to the Senate and the Chamber of Deputies<sup>7</sup>, as subsequently amended. Thus, Romanian citizens with voting rights who have their domicile or residence abroad will be able to exercise their electoral right by correspondence starting with the 2016 parliamentary elections. The models, the dimensions and the conditions for the accomplishment of the documents necessary for the exercise of the right to vote by correspondence, which are transmitted to the voter, were thus established.

In 2016, the National Roma Agency organized the **Holocaust Remembrance**<sup>8</sup>; event entitled „The European Holocaust against Roma, Remembrance Day”, in the context of Romania’s Presidency of the International Holocaust Memorial Alliance (IHRA)<sup>9</sup>. The event focused on the remembrance of the tribulations suffered by the Roma during the Holocaust both by Roma in Romania and by those in Europe), in the context of Romania’s obligation to respect the fundamental values of the EU. The event was not only an expression of the understanding of the Holocaust tragedy by the Romanian society, but also a way of keeping the memory of the victims alive, for such criminal acts never to be repeated again.<sup>10</sup>

The priorities of the IHRA’s Romanian Presidency were: to strengthen Holocaust education in the member and observer states of the organization and to promote academic research in the field of Holocaust; to collaborate with the media and social media to promote Holocaust knowledge and to combat Holocaust denial, anti-

<sup>7</sup>Published in the Official Gazette nr. 133 of 19 February 2016.

<sup>8</sup>Government Decision nr. 672 / 5, May 2004 establishes 9 October (a date which marks the deportation of Jews in Transnistria in 1941), as the National Day of official commemoration of Holocaust.

<sup>9</sup>Inter-governmental organization, established in 1998, consisting of 31 member states (including Romania) aiming to encourage all activities related to education for human rights, commemoration and research of the Holocaust in the member states, as well as in other interested countries and to also ensure political support for the concretization of such activities and events.

<sup>10</sup> <http://www.anr.gov.ro/index.php/evenimente/anunturi/540-anunt-1-august-2016-ceremonia-de-comemorare-a-holocaustului-impotriva-romilor-la-memorialul-victimelor-holocaustului-in-romania-din-bucuresti>

Semitism, racism, extremism, discrimination and xenophobia. The three priorities of the Romanian Presidency have supported the fundamental objectives of IHRA – remembrance, education and research of the Holocaust – thus contributing to the solidity of the organization’s mission.<sup>11</sup>

**The right to health** and regulation of transplants of organs, tissues and cells of human origin can be found in *Law no. 9/2016 for the ratification of the Additional Protocol to the European Convention for the Protection of Human Rights and Dignity of the Human Being against Applications of Biology and Medicine on Transplants of Organs and Tissues of Human Origin*<sup>12</sup> signed by Romania in Strasbourg on 20 February 2015. The Additional Protocol to the European Convention for the Protection of Human Rights and the Dignity of the Human Being against Applications of Biology and Medicine on transplants of organs and tissues of human origin, regulates legal and bioethical aspects of transplants in order to prevent the commercialization of elements of the human body through actions such as: protection of minors, disadvantaged people, compliance with all national provisions on donation, organs harvest prevention and illicit transplant procedures.

As regards **the rights of persons with disabilities** and their promotion and protection, it is worth mentioning the adoption of *Law no. 8/2016 on the establishment of mechanisms under the Convention on the Rights of Persons with Disabilities*<sup>13</sup>, by which the Council for the Monitoring of the Implementation of the Convention, the Mechanism for Coordination of Measures for the Implementation of the Convention, as well as the contact points for the implementation of the Convention were established. Also, the Article 2 of the Law no. 221/2010 on the ratification of the Convention on the Rights of Persons with Disabilities was abrogated.

Although the new law specifies that „the Monitoring Council, an autonomous admi-

<sup>11</sup> <https://www.mae.ro/node/38717>.

<sup>12</sup> Published in the Official Gazette No 62 of 28 January 2016.

<sup>13</sup> Published in the Official Gazette No. 48 of 21 January 2016.

nistrative authority with legal personality, under parliamentary control” is set up for the promotion, protection and monitoring of the implementation of the Convention, the tasks described in the normative act (in article 4), as well as the presentation of the activity (Article 10-14) only refer to the monitoring of public / private residential institutions designed to serve persons with disabilities as well as hospitals / psychiatric wards. These aspects have attracted a number of criticisms from organizations of disabled people, that the law is not reflecting all categories of people with disabilities in Romania. According to the most recent statistical data (01.12.2014), 737,885 persons with disabilities were registered, of which 97, 7% (720,683) live in their own families or are independent while 2, 3% (17,202) are in residential centers.

Through the new law, the National Authority for Disabled Persons was designated as Mechanism for Coordination of Measures for the Implementation of the Convention. At the same time, the law also envisages the creation of contact points within five ministries which have, *inter alia*, the obligation to maintain contact and liaise with the Coordination Mechanism and the Monitoring Board in order to identify the main directions of action for the full implementation of the CDPD.

Also, Law no. 8/2016 provides for the collaboration between the Monitoring Council and the People’s Advocate as an independent prevention mechanism under the Optional Protocol to the UN Convention against Torture, as well as cooperation with contact points. However, the law does not provide for the establishment of a monitoring framework or collaboration with the other human rights institutions in Romania.

The National Strategy for the Mental Health of the Child and Adolescent 2016 – 2020<sup>14</sup>, was adopted by Government Decision no. 889/2016. The document aims at the promotion, prevention and specialized interventions (medical, psychological, educational, vocational and social) identified as a priority by the National Center for Mental Health and Anti-Drug in partnership with

<sup>14</sup> Published in the Official Gazette No. 997 of 21 December 2016

the responsible institutions in the field of mental health, education and social protection.

The purpose of the Strategy is to ensure the well-being of the child and adolescent, to his/her family in particular and to the Romanian population in general, indicating the directions of action, the resources and the means necessary for its proper implementation. The strategy aims to reduce the risks and incidence of mental health problems and disorders on the child and adolescent.

The set priorities are:

- developing services to promote the mental health of the child and teenager and to prevent the mental disorders of children and adolescents through partnership between the education system, the health system, the social services system and the justice system.

- developing and implementing a comprehensive and complex database and establishing methods and rules for collecting and processing data on the target group, a database that will be extremely useful in developing personalized service intervention plans for the various levels of mental disorders.

- initial training of teachers, family doctors, pediatricians, school doctors, school nurses, community nurses and social workers, by developing child psychology modules focusing on behavioral management, developing social and emotional, vocational and health skills mental and mental health of the child and adolescent.

- development of early identification and intervention services for children at risk of developing mental health disorders and for children with a diagnosed mental health disorder.

- improving the existing Mental Health Centers and services and setting up new centers in counties where they do not exist.

- the development of specialized hospital services for children and adolescents with mental health disorders and for cases that represent a psychiatric emergency;

- continuous training of health, education, social protection and justice specialists in line with international standards and the promotion of good practice models for the development of

community mental health services for children and adolescents.

– the treatment and rehabilitation of mental health disorders for children and adolescents involve scientifically validated, medical, psychological, psychotherapeutic, educational, psychopedagogic and speech therapy interventions.

In order to promote **the right to education**, *Law no. 86/2016 regarding the establishment of Romanian Community Centers abroad was adopted.*<sup>15</sup> This law provides for the establishment by the Romanian State of some Romanian Community Centers in the countries where at least 5,000 Romanian citizens are registered at the diplomatic missions of Romania. Thus, it will contribute to the preservation and promotion of the national cultural and historical heritage, but also to the cohesion and intensification of the relations between the members of the Romanian communities.

*Law no. 213/2016 on International Development Cooperation and Humanitarian Aid*<sup>16</sup> regulates: the international development cooperation and humanitarian assistance actions funded by the Romanian state budget, the programmatic and institutional framework, the financing and implementation framework in the field of international cooperation for development and humanitarian assistance.

International cooperation for development and humanitarian assistance encompasses all the actions undertaken in line with the principle of international solidarity, with the following strategic objectives: long-term sustainability of sustainable economic and social development, undertaking actions to reduce poverty and improve the standard of living of the population in other countries, raising the educational level and professional qualification of the population and enhancing social inclusion; promoting and sustaining peace and security, developing democracy and civil society, including the development of the rule of law, the principles of good governance and respect for human rights; providing humanitarian assistance, in particular

<sup>15</sup> Publicată în M. Of., I, nr. 347 din 6 mai 2016.

<sup>16</sup> Publicată în M. Of., I, nr. 910 din 11 noiembrie 2016.

financial and / or state-funded funds in the event of disasters and armed conflicts, in order to mitigate the consequences for victims, including support for reducing the risk of natural disasters and ensuring the transition from a humanitarian crisis situation to early rehabilitation or reconstruction processes; as well as the realization of communication activities, education for development and awareness-raising to increase the level of understanding both at national and at international level regarding the challenges of international development, the interdependence between countries, as well as the activities carried out in order to address them.

**Social Inclusion.** *By Law no. 82/2016 for the approval of Government Ordinance no. 31/2015 for the modification of art. 37 paragraph (3) lit. e) of the Social Assistance Law no. 292/2011, as well as for the abrogation of art. 11 paragraph (5) of the Government Ordinance no. 68/2003 on social services,*<sup>17</sup> the extension to all economic operators with a lucrative purpose of the right to be recognized as social service providers was regulated, with some exceptions. This has been done to ensure an adequate offer of social services, including for the beneficiaries who are willing and able to pay for the services they have accessed. In this way, it will be possible to increase the capacity of public centers and non-profit legal persons to meet the demands of social services of people without income or with low incomes, persons who, although they are incapable of self caring, are willing to pay care services with the opportunity to access them, and these measures support the promotion of social inclusion and the fight against poverty<sup>18</sup>.

Also, the protection of the rights of the elderly who opted for hotel accommodation type of services was included, the respective economic operators having the obligation to be accredited as social service providers and to obtain operating license for the social services rendered, thus

<sup>17</sup> Publicată în M. Of., I, nr. 341 din 4 mai 2016.

<sup>18</sup> A se vedea Nota de fundamentare la Ordonanța Guvernului nr. 31/2015 pentru modificarea art. 37 alin. (3) lit. e) din Legea asistenței sociale nr. 292/2011, precum și pentru abrogarea art. 11 alin. (5) din Ordonanța Guvernului nr. 68/2003 privind serviciile sociale ([http://gov.ro/fisiere/subpagini\\_fisiere/NF\\_OG\\_31-2015.pdf](http://gov.ro/fisiere/subpagini_fisiere/NF_OG_31-2015.pdf))

certifying compliance with the minimum quality standards and, implicitly ensuring the protection of the consumer. This has also achieved compliance with the EU Guidelines for „Social Services of General Interest,” which involve opening up the market, including the inclusion of private and profit-making private and non-profit providers and the creation of equal opportunities for all types of providers.

At the same time, the document was strongly challenged by the main NGOs providing social services in Romania. By adopting it, economic operators can profit from accessing public funds, including European Structural Funds (those related to social inclusion of people in the most vulnerable categories), given that the social services sector is chronically under funded and the existing providers barely succeed to maintain social services funding to a minimum<sup>19</sup>.

Also in the field of social services, the Law no. 60/2016 regarding the approval of the Government Ordinance for amending and completing the Law no. 197/2012 on quality assurance in the field of social services<sup>20</sup> was adopted, aiming at better coordination of the procedures applicable to the issuance of an operating license by conferring the necessary powers on each of the coordinating authorities at the central level (National Authority for the Protection of Child's Rights and Adoption, The Department of Equal Opportunities for Women and Men, the National Authority for Disabled Persons) in their own fields of competence. Given their responsibilities, they need to know the problems and conditions to be met by social service providers for each of the categories of beneficiaries, namely children, victims of domestic violence and people with disabilities.

**Child protection** remains an area that needs to be constantly updated and linked to social realities. Thus, a number of legislative amendments were made: *Law no. 52/2016 for amending and completing the Law no. 272/2004*

<sup>19</sup> [http://www.caritas.org.ro/CARITASfiles/Scrisoare\\_in\\_ATTN\\_Dnei\\_Ministru\\_Rovana\\_Plumb\\_OG\\_Modif\\_L292.doc](http://www.caritas.org.ro/CARITASfiles/Scrisoare_in_ATTN_Dnei_Ministru_Rovana_Plumb_OG_Modif_L292.doc).

<sup>20</sup> Published in the Official Gazette No. 286 of 15 April 2016

*on the Protection and Promotion of the Rights of the Child*,<sup>21</sup> aiming at granting both parents the right to request the public social assistance service or, as the case may be, the persons with social assistance responsibilities to monitor the personal relations with the child and, at the same time, it provides that the decision on the duration of the extension of the monitoring period which does not have to be limited to 6 months it is at the latitude of the representative of the public social service or, as the case may be, of the person responsible for social assistance who prepared the monitoring report.

Also, the legislative amendments to the Law no. 272/2004 regarding the adoption procedure, by Law no. 57/2016 for amending and completing the Law no. 273/2004 on the adoption procedure as well as other normative acts<sup>22</sup> have the role of ensuring the speedy achievement of adoptable child status, of streamlining the procedure of evaluation of adopters and of supporting their adoptions, of reviewing the provisions regarding making the child fit with an adoptive family, regulating special procedural provisions to allow the court to resolve more quickly the adoption causes and, last but not least, to reduce the period within which a child may become eligible for international adoption from 2 years to 1 year.

Law no. 140/2016 amending Art. 277 of the Education Law was adopted with regard to the protection of the child and the avoidance of the phenomenon of school dropout. Thus, this measure more or less prevents school dropout in higher education but it is also reparatory in relation to the already existing discrimination against the candidates enrolled in higher education whose parents have activated or are active in the education system, since it supports the guaranteed principle that every citizen has equal rights to education, the state being bound to ensure non-discriminatory access to education.

**Victim protection.** The Romanian Parliament adopted *Law no. 151/2016 on the European protection order and on amending and completing*

<sup>21</sup> Published in the Official Gazette No. 253 of 5 April 2016.

<sup>22</sup> Published in the Official Gazette No. 283 of 14 April 2016.



*some normative acts*<sup>23</sup>, transposing into national legislation Directive 2011/99 / EU of the European Parliament and of the Council of 13 December 2011 on the European protection order. It is a tool for the protection of persons who are or might be victims of crime and aims to extend the protection afforded by certain measures adopted under the law of a Member State of the European Union to other Member States in which the person receiving the protection decides to settle or to live.

The beneficiary of the order may be any person who has the status of injured person in a criminal proceeding in progress or in which a final conviction or postponement decision has been pronounced or a family member of the injured party.

The European protection order will be issued for the duration of the protected person's move to the territory of another EU Member State by the competent authority, namely the judicial body in which the protection measure is based, on the basis of which the European protection order (the court, the preliminary judge, the judge of rights and freedoms, the judge with the execution or the prosecutor) is required.

In order to support the mobility of persons and goods, as well as for the protection of the environment and the right to health, *the Law No. 202 / 2016 on the integration of the railway system in Romania into the single European railway area*<sup>24</sup>, was adopted. This Law aims at increasing the competitiveness of the railway transport, implicitly, the logistical support of the tendencies of increasing the mobility of persons and goods, as well as the reduction of the pollutant emissions and the emission of greenhouse gases. Reducing greenhouse gas emissions will allow budget spending on health and environmental protection to mitigate the negative effects generated by them. The adoption of the law comes as a result of the transposition into national law of EU *Directive 2012/34 on the establishment of the single European railway area*<sup>25</sup>, which should have been achieved by the deadline of 16 June 2015, and

<sup>23</sup> Publicată în M. Of., I, nr. 545 din 20 iulie 2016.

<sup>24</sup> Published in the Official Gazette No. 900 of 9 November 2016.

<sup>25</sup> Published in the Official Gazette L 343 of 14.12. 2012.

the failure to do so by the deadline determined the European Commission to open case CJUE no. 2015/0335, alleging failure to notify the national measures transposing the above-mentioned Directive. In this way, in 2016 the adoption of this law was imperative.

Among the expected changes can be mentioned: increase the competitiveness of the rail transport on the internal transport services market, open the competition for the international passenger transport market, increase the efficiency of attracting European funds for the development of rail transport infrastructure, reduce the consumption of petroleum products in transport and strengthening of energy independence in the national economy, limiting budgetary spending in the field of environmental protection and health as a result of promoting a less polluting and safer way of transport.

In support of free movement in the EU comes the adoption of Law no. 169/2016 for amending and completing the *Law no. 248/2005 on the free movement of Romanian citizens abroad*<sup>26</sup>, which aims at facilitating the traveling abroad of Romanian minority citizens by eliminating the legalization or apostillation of documents issued by Romanian and foreign authorities, expressing a single parental agreement for several trips for a period of up to 3 years without mentioning the destinations, the purpose of the movement and the route, the exemption for Romanian minors who have their domicile or residence in the state of destination from the presentation of the declaration of the parents / guardians. Also, the necessary regulations have been laid down for the issuance of service passports and diplomatic passports.

Also, *Law no. 5/2016 regarding the approval of Government Emergency Ordinance no. 53/2015 establishing measures to be taken in the event of a massive influx of migrants at the state border of Romania*<sup>27</sup> aims to make more efficient use of the capacities of the institutions and public authorities with attributions in the field

<sup>26</sup> Published in the Official Gazette No. 772 of 3 October 2016

<sup>27</sup> Published in the Official Gazette No. 24 of 13 January 2016.

of immigration and asylum and to apply equitable and non-discriminatory treatment to foreigners or stateless persons entering or trying to enter Romania.

*Law no. 14/2016 on the approval of Government Ordinance no. 25/2014 regarding employment and detachment of foreigners on Romanian territory and amending and supplementing some normative acts regarding the foreigners regime in Romania*<sup>28</sup> aims to regulate the employment and detachment of foreigners on the territory of Romania, and the proposed amendments and additions aim at creating a clearer legislative

framework, both in terms of aligning internal legislation with that of the EU, as well as of rigorous use of legal institutions and instruments specific to the field of migration.

In conclusion, the promotion and protection of human rights are objectives pursued in domestic and community legislation, including in 2016, as part of a continuous process and a challenge to ensure democracy and the rule of law. Undoubtedly, in 2017, the common fight against terrorism will unfortunately be one of the EU's priorities, and populism, unemployment, social inequality, refugee crisis, Brexit and the fight against terrorism remain key challenges for the EU.<sup>29</sup>

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<sup>28</sup> Published in the Official Gazette No, 48 of 21 January 2016.

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<sup>29</sup> As stated by the President of the EU Commission, Jean Claude Juncker in his annual speech in the EU Parliament <http://www.europarl.europa.eu/news/ro/news-room/20160909IPR41712/dezbaterea-privind-starea-uniunii-2016>.